

Pro Se 14 (Rev. 12/16) Complaint for Violation of Civil Rights (Prisoner)

UNITED STATES DISTRICT COURT

for the

Southern District of GeorgiaAugusta DivisionFILED
U.S. DISTRICT COURT
BRUNSWICK DIV.

2022 DEC 30 P 1:57

CLERK Rm
U.S. DIST. CT. OF GA.

Case No.

1:22-cv-163

(to be filled in by the Clerk's Office)

JAMES LEWIS WINN

Plaintiff(s)

(Write the full name of each plaintiff who is filing this complaint. If the names of all the plaintiffs cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

-v-

Richard Roundtree, Sheriff; Zachary Cuonzo-Simmons, Sheriff Deputy; Brandon Kennedy, Sheriff Deputy; Russell Schaffer, Corporal; Lewis, Sheriff Deputy; Wade, Sheriff Deputy; (See Attachment)

Defendant(s)

(Write the full name of each defendant who is being sued. If the names of all the defendants cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names. Do not include addresses here.)

COMPLAINT FOR VIOLATION OF CIVIL RIGHTS

(Prisoner Complaint)

NOTICE

Federal Rules of Civil Procedure 5.2 addresses the privacy and security concerns resulting from public access to electronic court files. Under this rule, papers filed with the court should *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number.

Except as noted in this form, plaintiff need not send exhibits, affidavits, grievance or witness statements, or any other materials to the Clerk's Office with this complaint.

In order for your complaint to be filed, it must be accompanied by the filing fee or an application to proceed in forma pauperis.

I. The Parties to This Complaint**A. The Plaintiff(s)**

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name	James L. Winn		
All other names by which you have been known:	Fatboy and Scar		
ID Number	502203549		
Current Institution	Joseph V. Conte Facility		
Address	1351 NW 27th Avenue		
	Pompano Beach,	Florida	33069
	City	State	Zip Code

B. The Defendant(s)

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. Make sure that the defendant(s) listed below are identical to those contained in the above caption. For an individual defendant, include the person's job or title (*if known*) and check whether you are bringing this complaint against them in their individual capacity or official capacity, or both. Attach additional pages if needed.

Defendant No. 1

Name	Richard Roundtree		
Job or Title (<i>if known</i>)	Sheriff		
Shield Number	unknown		
Employer	Richmond County Sheriff's Office		
Address	400 Walton		
	Augusta	Georgia	30901
	City	State	Zip Code
<input checked="" type="checkbox"/> Individual capacity		<input checked="" type="checkbox"/> Official capacity	

Defendant No. 2

Name	Zachary Cuonzo-Simmons		
Job or Title (<i>if known</i>)	Sheriff Deputy		
Shield Number	C413		
Employer	Richmond County Sheriff's Office		
Address	400 Walton Way		
	Augusta	Georgia	30901
	City	State	Zip Code
<input checked="" type="checkbox"/> Individual capacity		<input checked="" type="checkbox"/> Official capacity	

Defendant No. 3

Name Brandon M. Kennedy
 Job or Title (if known) Sheriff Deputy
 Shield Number B497
 Employer Richmond County Sheriff's Office
 Address 400 Walton Way
Augusta Georgia 30901
City State Zip Code
☒ Individual capacity ☒ Official capacity

Defendant No. 4

Name Russell Schaffer
 Job or Title (if known) Corporal
 Shield Number B190
 Employer Richmond County Sheriff's Office
 Address 400 Walton Way
Augusta Georgia 30901
City State Zip Code
☒ Individual capacity ☒ Official capacity

(Continued, see page 2 of 12)

II. Basis for Jurisdiction

Under 42 U.S.C. § 1983, you may sue state or local officials for the “deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws].” Under *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971), you may sue federal officials for the violation of certain constitutional rights.

A. Are you bringing suit against (check all that apply):

- ☐ Federal officials (a *Bivens* claim)
☒ State or local officials (a § 1983 claim)

B. Section 1983 allows claims alleging the “deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws].” 42 U.S.C. § 1983. If you are suing under section 1983, what federal constitutional or statutory right(s) do you claim is/are being violated by state or local officials?
State and local laws of Georgia; Fourth, Fifth, Fourteenth and eighth amendments.

C. Plaintiffs suing under *Bivens* may only recover for the violation of certain constitutional rights. If you are suing under *Bivens*, what constitutional right(s) do you claim is/are being violated by federal officials?

- D. Section 1983 allows defendants to be found liable only when they have acted "under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia." 42 U.S.C. § 1983. If you are suing under section 1983, explain how each defendant acted under color of state or local law. If you are suing under *Bivens*, explain how each defendant acted under color of federal law. Attach additional pages if needed.
1. Defendant Roundtree is the Sheriff of the Richmond County Sheriff's Office of Augusta, Georgia. Defendant Roundtree negligently caused the injuries to the plaintiff by failing to properly train, supervise and control the conduct of Defendant Sheriff Deputies by failing to train members of the Richmond County (Continued See page 5 of 11)

III. Prisoner Status

Indicate whether you are a prisoner or other confined person as follows (check all that apply):

- ☒ Pretrial detainee
- ☐ Civilly committed detainee
- ☐ Immigration detainee
- ☐ Convicted and sentenced state prisoner
- ☐ Convicted and sentenced federal prisoner
- ☐ Other (explain)

IV. Statement of Claim

State as briefly as possible the facts of your case. Describe how each defendant was personally involved in the alleged wrongful action, along with the dates and locations of all relevant events. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases or statutes. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

- A. If the events giving rise to your claim arose outside an institution, describe where and when they arose.

I-520 West, Exit 1, on December 30th, 2020, at approximately 9:22pm

- B. If the events giving rise to your claim arose in an institution, describe where and when they arose.

C. What date and approximate time did the events giving rise to your claim(s) occur?

December 30th, 2020, at approximately

D. What are the facts underlying your claim(s)? (For example: What happened to you? Who did what? Was anyone else involved? Who else saw what happened?)
~~The~~

V. Injuries

If you sustained injuries related to the events alleged above, describe your injuries and state what medical treatment, if any, you required and did or did not receive. The plaintiff sustained and suffered a fractured nose; a lacerated bottom lip in 4 (four) different places; 2 (two) bruised eyes (Black eyes); abrasions, lacerations and swelling to his face, head and body; a fractured left thumb with a piece of the bone broken off that is going to require a surgical procedure to correct it; a knot-like swelling on the inner left wrist that is going to require a surgical procedure to correct; permanent scarred skin tissue to his upper center back from being repeatedly tased; mental anguish; and physical anguish.

VI. Relief

State briefly what you want the court to do for you. Make no legal arguments. Do not cite any cases or statutes. If requesting money damages, include the amounts of any actual damages and/or punitive damages claimed for the acts alleged. Explain the basis for these claims.

Wherefore, the plaintiff prays that this court

1. Award to the plaintiff compensatory damages in an amount to be determined at trial by the Judge, jointly and severally against the defendants for the matters alleged in this Complaint;
2. Award to the plaintiff punitive damages in an amount to be determined at trial against the defendants except the defendants municipality;

(Continued, see page 12 of 12)

VII. Exhaustion of Administrative Remedies Administrative Procedures

The Prison Litigation Reform Act ("PLRA"), 42 U.S.C. § 1997e(a), requires that "[n]o action shall be brought with respect to prison conditions under section 1983 of this title, or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted."

Administrative remedies are also known as grievance procedures. Your case may be dismissed if you have not exhausted your administrative remedies.

A. Did your claim(s) arise while you were confined in a jail, prison, or other correctional facility?

☐ Yes

☒ No

If yes, name the jail, prison, or other correctional facility where you were confined at the time of the events giving rise to your claim(s).

n/a

B. Does the jail, prison, or other correctional facility where your claim(s) arose have a grievance procedure?

☒ Yes

☐ No

☐ Do not know

C. Does the grievance procedure at the jail, prison, or other correctional facility where your claim(s) arose cover some or all of your claims?

☐ Yes

☒ No

☐ Do not know

If yes, which claim(s)?

n/a

- D. Did you file a grievance in the jail, prison, or other correctional facility where your claim(s) arose concerning the facts relating to this complaint?

☐ Yes

☒ No

If no, did you file a grievance about the events described in this complaint at any other jail, prison, or other correctional facility?

☐ Yes

☒ No

- E. If you did file a grievance:

1. Where did you file the grievance?
Internal Affairs office of the Richmond County Sheriff's Office; Richard Roundtree, Sheriff of the Richmond County Sheriff's Office; Micheal Horowitz, Inspector General of the United States Department of Justice; Allen Rollins, Captain of the Internal Affairs Office of the Richmond County Sheriff's Office;

2. What did you claim in your grievance?

Please see page 2 ~~of~~ listed as Grievances

3. What was the result, if any?

not sustained, please see page 2 ~~of~~ listed as Grievances

4. What steps, if any, did you take to appeal that decision? Is the grievance process completed? If not, explain why not. (Describe all efforts to appeal to the highest level of the grievance process.)
I was not given instructions by Internal Affairs on who to file an appeal with.

F. If you did not file a grievance:

1. If there are any reasons why you did not file a grievance, state them here:

n/a

2. If you did not file a grievance but you did inform officials of your claim, state who you informed, when and how, and their response, if any:

n/a

G. Please set forth any additional information that is relevant to the exhaustion of your administrative remedies.

(Note: You may attach as exhibits to this complaint any documents related to the exhaustion of your administrative remedies.)

VIII. Previous Lawsuits

The “three strikes rule” bars a prisoner from bringing a civil action or an appeal in federal court without paying the filing fee if that prisoner has “on three or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury.” 28 U.S.C. § 1915(g).

To the best of your knowledge, have you had a case dismissed based on this “three strikes rule”?

☐ Yes

☒ No

If yes, state which court dismissed your case, when this occurred, and attach a copy of the order if possible.

n/a

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- A. Have you filed other lawsuits in state or federal court dealing with the same facts involved in this action?

☒ Yes

☐ No

- B. If your answer to A is yes, describe each lawsuit by answering questions 1 through 7 below. (If there is more than one lawsuit, describe the additional lawsuits on another page, using the same format.)

1. Parties to the previous lawsuit

Plaintiff(s) James L. Winn

Defendant(s) Sheriff Richard Roundtree, et al.

2. Court (if federal court, name the district; if state court, name the county and State)

Southern District of Georgia

3. Docket or index number

122-127

4. Name of Judge assigned to your case

5. Approximate date of filing lawsuit

September 2022

6. Is the case still pending?

☒ Yes

☐ No

If no, give the approximate date of disposition.

7. What was the result of the case? (For example: Was the case dismissed? Was judgment entered in your favor? Was the case appealed?)

- C. Have you filed other lawsuits in state or federal court otherwise relating to the conditions of your imprisonment?

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☐ Yes☒ No

D. If your answer to C is yes, describe each lawsuit by answering questions 1 through 7 below. *(If there is more than one lawsuit, describe the additional lawsuits on another page, using the same format.)*

1. Parties to the previous lawsuit

Plaintiff(s)

n/a

Defendant(s)

n/a

2. Court *(if federal court, name the district; if state court, name the county and State)*

n/a

3. Docket or index number

n/a

4. Name of Judge assigned to your case

n/a

5. Approximate date of filing lawsuit

n/a

6. Is the case still pending?

☐ Yes☐ No

If no, give the approximate date of disposition

n/a

7. What was the result of the case? *(For example: Was the case dismissed? Was judgment entered in your favor? Was the case appealed?)*

n/a

IX. Certification and Closing

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

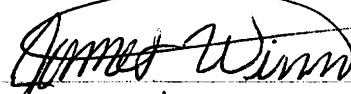
A. For Parties Without an Attorney

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing:

12/22/2022

Signature of Plaintiff



Printed Name of Plaintiff

James L. Winn

Prison Identification #

502203549

Prison Address

Joseph V. Conte Facility
1351 NUS 27th Avenue

Pompano Beach

City

Florida

State

33069

Zip Code

B. For Attorneys

Date of signing:

Signature of Attorney

Printed Name of Attorney

Bar Number

Name of Law Firm

Address

City

State

Zip Code

Telephone Number

E-mail Address